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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

JENNIFER KIKERPILL and BEATRICE
JUAREZ, for the real party in interest, the State
of California,

Plaintiff,

vs.

A.G. HOLDINGS CORPORATION dba TURF
DISTRIBUTORS and DOES 1 through 50,

Defendants.

Case No. 37-2023-00020187-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 *et seq.*)**

1 Plaintiffs JENNIFER KIKERPILL and BEATRICE JUAREZ (collectively referred to as
2 “Plaintiffs”), in their capacity as the State of California’s designated proxy under the Private Attorneys
3 General Act, and on behalf of other current and former California employees allege the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the Private Attorneys General Act (“PAGA”), incorporated in Labor Code
6 sections 2698, 2699 *et seq.*, Plaintiffs bring this representative action against Defendants A.G.
7 HOLDINGS CORPORATION dba TURF DISTRIBUTORS (“A.G. HOLDINGS”) and DOES 1
8 through 50 (all defendants are hereinafter collectively referred to as “Defendants”) for wage and hour
9 violations of the California Labor Code and the applicable Industrial Welfare Commission Wage
10 Order (the “IWC Wage Order”).

11 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
12 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
13 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
14 for violation of the code may, as an alternative, be recovered through a civil action brought by an
15 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
16 to the procedures specified in Labor Code section 2699.3.

17 3. Through this representative action, Plaintiffs seek to recover civil penalties under the
18 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

19 **JURISDICTION AND VENUE**

20 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
21 jurisdiction is proper here because Plaintiffs allege claims arising under California law.

22 5. This Court has jurisdiction over Defendants because each is believed to be an
23 association, corporation, business entity, or individual that conducts substantial business in the State
24 of California, County of San Diego.

25 6. This Court has jurisdiction over Plaintiffs’ claim for civil penalties under the PAGA.

26 7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the
27 Superior Court of California for the County of San Diego because this is where the alleged wrongful
28 misconduct alleged herein occurred.

THE PARTIES

8. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”].)

9. Each Plaintiff is an “aggrieved employee” because they were employed by Defendants and had one or more of the alleged violations committed against them, and therefore are properly suited to act on behalf the state, and collect civil penalties for all violations committed against other current and former employees, who are also aggrieved employees under Labor Code section 2699(c).

10. Plaintiff Juarez started her employment with Defendants in June 2022.

11. Plaintiff Kikerpill started her employment with Defendants in August 2022.

12. Defendants are doing business throughout the state of California, including the County of San Diego.

13. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiffs at this time. Plaintiffs therefore sue said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiffs will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiffs are informed and believe, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiffs for the events and actions alleged herein.

14. Plaintiffs are informed and believe, and based thereon allege, that at all times, each Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the other defendants and each were co-conspirators with respect to the acts and the wrongful conduct alleged herein so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other defendants.

15. Plaintiffs are informed and believe, and based thereon allege, that each Defendant was acting partly within and partly without the scope and course of their employment, and was acting with the knowledge, permission, consent, and ratification of every other Defendant.

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1 16. At all material times, Defendants were and/or are employers or persons acting on
2 behalf of employers under California law, the IWC Wage Order, and Labor Code sections 558 and
3 558.1 and thus are jointly and severally liable for the violations alleged herein and any amounts
4 awarded and/or recoverable as a result of this action.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 17. On February 17, 2023, Plaintiff Kikerpill, via counsel, sent the statutorily required
7 notice to the LWDA (“PAGA Notice”), indicating that she intends to pursue claims against
8 Defendants for violations of the Labor Code. A copy of the PAGA Notice was also sent, via certified
9 mail, to A.G. Holdings that same day—February 17, 2023.

10 18. On March 6, 2023, Plaintiff Juarez, via counsel, sent her PAGA Notice to the LWDA,
11 indicating that she intends to pursue claims against Defendants for violations of the Labor Code. A
12 copy of the PAGA Notice was also sent, via certified mail, to A.G. Holdings that same day—March
13 6, 2023.

14 19. The statutory period expired since Plaintiffs sent their PAGA Notice to the LWDA,
15 and the LWDA did not serve Plaintiffs with a notice of its intent to assume jurisdiction over the
16 applicable penalty claims and did not provide notice as set forth in Labor Code section
17 2699.3(a)(2)(A). Thus, Plaintiffs have exhausted the administrative requirements under the PAGA.

18 **PAGA REPRESENTATIVE ACTION CLAIMS**

19 20. On information and belief, Plaintiffs and the Represented Employees were subject to
20 wage and hour violations, specifically by Defendants’ violations of Labor Code sections 201, 202,
21 203, 204, 221, 222, 226(a), 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(9), 226(b), 226(c), 226.7, 226.7(b),
22 226.7(c), 227.3, 233, 246, 246(l), 432, 510, 512, 1197, 1198, 1198.5, 2802, 2698, and 2699 et seq.

23 21. California law provides that an aggrieved employee may file a representative action
24 under the PAGA against an employer for civil penalties in connection with violations of the Labor
25 Code and Wage Order.

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1 **FIRST CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
3 **Sections 246 and 246(l) against all Defendants)**

4 22. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set
5 forth herein.

6 23. Under Labor Code sections 246 and 246(l), employers in California must provide
7 employees with paid sick leave to be paid at a specified rate of pay which must factor in additional
8 earnings during a given pay period wherein such leave is used.

9 24. Upon information and belief, Defendants provided its employees additional
10 nondiscretionary payments, including but not limited to, commissions.

11 25. Upon information and belief, Defendants paid sick leave at the incorrect rate of pay
12 resulting in the underpayment of wages. By way of one example, Defendants failed to appropriately
13 factor in additional payments and compensation for purposes of computing the appropriate rate of pay
14 for sick leave wages as required by Labor Code sections 246 and 246(l).

15 26. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
16 Labor Code sections 246 and 246(l).

17 27. Civil penalties under the PAGA are equitable in nature. (*LaFace v. Ralphs Grocery*
18 *Co.* (2022) 75 Cal.App.5th 388, 398-399; *Nationwide Biweekly Admin., Inc. v. Superior Ct. of*
19 *Alameda Cty.* (2020) 9 Cal.5th 279.)

20 28. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
21 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
22 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
23 all Labor Code provisions for which a civil penalty is not specifically provided.

24 29. Plaintiffs are seeking civil penalties against Defendants under Labor Code section
25 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
26 amount to be shown according to proof.

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30. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiffs seek to recover attorneys' fees, costs, equitable relief in the form of civil penalties, in an amount to be shown according to proof.

31. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA, in an amount to be shown according to proof.

SECOND CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 512, 226.7 and the IWC Wage Order against all Defendants)**

32. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

33. Under Labor Code section 512 and the IWC Wage Order, if an employee works more than five hours in a given day, the employer must provide the employee with the opportunity to take a meal period of at least thirty minutes before the end of the employee's fifth hour. (*Brinker Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004.)

34. Labor Code section 226.7 prohibits an employer from requiring an employee to work during a meal/rest period and provides that an employee must be paid a wage for doing so.

35. Upon information and belief, Defendants failed to provide its employees with the opportunity to take compliant meal/rest periods in violation of Labor Code sections 512, 226.7 and the IWC Wage Order.

36. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 512 and 226.7.

37. Labor Code section 558 imposes upon Defendants, and each of them, penalties of fifty dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

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38. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

39. Plaintiffs are seeking civil penalties against Defendants under Labor Code sections 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

40. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

THIRD CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code Sections 226.7, 226.7(c), and the IWC Wage Order against all Defendants)

41. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

42. Under Labor Code section 226.7(c), if an employer fails to provide an employee with a proper meal or rest period, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

43. Upon information and belief, Defendants failed to issue meal and/or rest premiums at the regular rate of pay in violation of Labor Code section 226.7(c). (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858.) By way of one example, Defendants failed to include all compensation earned (e.g. commissions) during a given period when determining the regular rate of pay, resulting in the underpayment of meal and/or rest premiums.

44. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226.7(c).

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45. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

46. Plaintiffs are seeking civil penalties against Defendants under Labor Code section 2699(f), the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

47. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FOURTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 510, 1198 and IWC Wage Order against all Defendants)**

48. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

49. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one-and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor Code § 510 and IWC Wage Order.)

50. Upon information and belief, Defendants failed to properly provide its employees with overtime pay for hours worked in excess of eight hours in a workday and/or hours worked in excess of 40 hours in one workweek.

51. Upon information and belief, Defendants failed to provide its employees with overtime pay at the regular rate of pay. By way of one example, Defendants failed to include all compensation earned (e.g. commissions) during a given period when determining the regular rate of pay, resulting in the underpayment of overtime wages.

52. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 510, 1198, and the IWC Wage Order.

53. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

54. Pursuant to Labor Code section 558, any employer or other person acting on behalf of an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them, penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

55. Plaintiffs are seeking civil penalties against Defendants under Labor Code sections 2699(f) and 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

56. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTH CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code

Section 226(a)(1) against all Defendants)

57. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

58. Labor Code section 226(a)(1) requires that wage statements that an employer issues to its employees accurately state the gross wages earned.

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59. Defendants failed to accurately state the proper gross on the wage statements issued to their employees in violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued failed to include the accurate amount of gross wages earned during a given pay period because they failed to include the proper amount of all wages earned, including, but not limited to, sick pay wages, meal and rest premium wages, overtime wages, and vacation wages.

60. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(1).

61. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

62. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

63. Plaintiffs are seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

64. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SIXTH CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code

Section 226(a)(2) against all Defendants)

65. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

66. Labor Code section 226(a)(2) requires that wage statements that an employer issues to its employees accurately state the total hours worked.

67. Defendants failed to state and/or failed to accurately state the total hours worked in violation of Labor Code section 226(a)(2).

68. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(2).

69. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

70. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

71. Plaintiffs are seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

72. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(5) against all Defendants)**

73. Plaintiffs re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

74. Labor Code section 226(a)(5) requires that wage statements that an employer issues to its employees accurately state the net wages earned.

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75. Defendants failed to accurately state the proper net wages earned on the wage statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements issued failed to include the accurate amount of net wages earned during a given pay period because they failed to include the proper amount of all wages earned, including, but not limited to, sick pay wages, meal and rest premium wages, overtime wages, and vacation wages.

76. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(5).

77. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

78. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

79. Plaintiffs are seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

80. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

EIGHTH CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code

Section 226(a)(9) against all Defendants)

81. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

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1 82. Labor Code section 226(a)(9) requires that the employer's wage statements accurately
2 state all applicable hourly rates in effect during the pay period and the corresponding number of hours
3 worked at each hourly rate by the employee.

4 83. Upon information and belief, Defendants failed to accurately state all applicable hourly
5 rates in effect during the pay period and/or accordingly state the corresponding number of hours
6 worked at each hourly rate by the employee in violation of Labor Code section 226(a)(9). By way of
7 one example, the rates/hours for sick pay wages, meal and rest premium wages, overtime wages and/or
8 vacation wages were inaccurately itemized.

9 84. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
10 Labor Code section 226(a)(9).

11 85. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
12 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
13 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
14 all Labor Code provisions for which a civil penalty is not specifically provided.

15 86. With respect to violations of Labor Code section 226, Labor Code section 226.3
16 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
17 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
18 employee for each pay period.

19 87. Plaintiffs are seeking civil penalties against Defendants under Labor Code section
20 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
21 PAGA in an amount to be shown according to proof.

22 88. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover
23 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
24 according to proof.

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1 **NINTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226(a) against all Defendants)**

4 89. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set
5 forth herein.

6 90. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage
7 statement provided to an employee or a computer-generated record that accurately shows all of the
8 information required under 226(a)(1) through (a)(9).

9 91. Upon information and belief, during all times relevant to this action, Defendants failed
10 to keep records required under Labor Code section 226(a). By way of example, the copies of the wage
11 statements that Defendants kept do not include the accurate gross and net wages, total hours worked,
12 and/or all applicable hourly rates and corresponding hours worked as described herein and in the
13 aforementioned paragraphs.

14 92. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
15 Labor Code section 226(a).

16 93. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
17 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
18 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
19 all Labor Code provisions for which a civil penalty is not specifically provided.

20 94. With respect to violations of Labor Code section 226, Labor Code section 226.3
21 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
22 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
23 employee for each pay period.

24 95. Plaintiffs are seeking civil penalties against Defendants under Labor Code section
25 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
26 PAGA in an amount to be shown according to proof.

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96. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 204 against all Defendants)**

97. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

98. Labor Code section 204 imposes an obligation of timely payment of wages upon California employers.

99. Defendants violated Labor Code section 204 because they failed to timely pay its employees all earned wages during an applicable pay period. By way of one example, Defendants failed to pay all earned sick pay wages, meal/rest premium wages, overtime wages, and/or vacation wages in a timely manner as required under Labor Code section 204.

100. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 204.

101. Labor Code section 210 imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations.

102. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

103. Plaintiffs are seeking civil penalties against Defendants under Labor Code sections 210, 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

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104. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

ELEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 201, 202, and 203 against all Defendants)**

105. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

106. Under Labor Code section 201, if an employee is discharged by his/her employer, the wages earned and unpaid at the time of discharge are due and payable immediately.

107. Under Labor Code section 202, if on the other hand, “an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

108. Labor Code section 203 provides, in pertinent part: “If an employer willfully fails to pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. ...”

109. Upon information and belief, Defendants did not pay its employees all wages upon termination or separation of employment. By way of one example, employees, were owed sick pay wages, meal and rest premium wages, overtime wages, and vacation wages at the time of separation/termination of employment, which, upon information and belief, have to date not been paid.

110. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 201, 202, and 203.

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111. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

112. Plaintiffs is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

113. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TWELFTH CAUSE OF ACTION

(Representative Claims for Penalties Under PAGA for Violation of Labor Code Section 227.3 against all Defendants)

114. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

115. Under Labor Code section 227.3, "whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served [...]."

116. Defendants violated Labor Code section 227.3. By way of example, Defendants failed to provide the correct vacation hours and/or appropriate accrual of vacation hours to its employees, which resulted in the underpayment of vacation wages.

117. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 227.3.

118. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

119. Plaintiffs are seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

120. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

THIRTEENTH CAUSE OF ACTION

**(Representative Claims for Penalties Under PAGA for Violation of Labor Code Section 233
against all Defendants)**

121. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

122. Under Labor Code section 233, “[a]n employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5.

123. Upon information and belief, Defendants failed to permit their employees to use their sick leave for the reasons specified in Labor Code section 246.5 in violation of Labor Code section 233.

124. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section. 233

125. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

126. Plaintiffs are seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

127. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FOURTEENTH CAUSE OF ACTION

**(Representative Claims for Civil Penalties Under the PAGA for Violation of Labor Code
Sections 221 and 223 Against all Defendants)**

128. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

129. Under Labor Code section 221, it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.

130. Under Labor Code section 223, it is unlawful for an employer to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.

131. Defendants violated Labor Code sections 221 and 223. Upon information and belief, Defendants would unlawfully collect, receive, and/or deduct part of the wages that were earned by, and to be paid to their employees. By way of one example, Defendants deducted, rather than issued a car allowance, in the amount of \$250.00, from Plaintiff Kikerpill's gross pay on September 20, 2022, October 5, 2022, and October 20, 2022.

132. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 221 and 223.

133. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

134. Plaintiffs are seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

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135. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 2802 Against all Defendants)**

136. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

137. Labor Code section 2802, subdivision (a) states that an employer must reimburse employees “for all necessary expenditures” incurred by the employee in “direct consequence of the discharge of his or her duties.”

138. Defendants violated Labor Code section 2802. Defendants' employees were required to use their cellular phone and/or personal vehicle for employment related matters. However, Defendant failed to adequately reimburse such employees for use of their personal vehicles and/or cell phones. Defendants' employees should have been given appropriate car allowances and/or proper reimbursement for gas and/or mileage and/or proper reimbursement for cell phone usage.

139. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 2802.

140. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

141. Plaintiffs are seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

142. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

1 **SIXTEENTH CAUSE OF ACTION**

2 **(Representative Claims for Civil Penalties Under the PAGA for Violation of Labor Code**
3 **Sections 226(b), 226(c), 1198.5, and 432 Against all Defendants)**

4 143. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set
5 forth herein.

6 144. Labor Code section 226(b) requires, in pertinent part, that “An employer that is
7 required by this code or any regulation adopted pursuant to this code to keep the information required
8 by subdivision (a) shall afford current and former employees the right to inspect or copy records
9 pertaining to their employment, upon reasonable request to the employer. The employer may take
10 reasonable steps to ensure the identity of a current or former employee. If the employer provides
11 copies of the records, the actual cost of reproduction may be charged to the current or former
12 employee.”

13 145. Labor Code section 226(c) requires, in pertinent part, that “An employer who receives
14 a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current
15 or former employee shall comply with the request as soon as practicable, but no later than 21 calendar
16 days from the date of the request. A violation of this subdivision is an infraction. Impossibility of
17 performance, not caused by or a result of a violation of law, shall be an affirmative defense for an
18 employer in any action alleging a violation of this subdivision. An employer may designate the person
19 to whom a request under this subdivision will be made.”

20 146. Labor Code section 432 requires employers doing business in the State of California
21 to provide current and former employees copies of all written instruments they sign upon request.

22 147. Labor Code section 1198.5(b)(1) provides, in pertinent part: “The employer shall make
23 the contents of those personnel records available for inspection to the current or former employee, or
24 his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar
25 days from the date the employer receives a written request.”

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1 148. On November 10, 2022, Plaintiff Juarez, through counsel, sent a letter to A.G.
2 Holdings, requesting copies of her payroll and personnel records. While A.G. Holdings produced
3 some records through their attorney, it failed to produce other records, such as, for example, time
4 records, applicable policies, and any applicable employee handbooks. Despite several follow up
5 emails to defense counsel, A.G. Holdings failed to produce such records in violation of Labor Code
6 sections 226, 226(b), 226(c), 432, and 1198.5.

7 149. On December 23, 2022, Plaintiff Kikerpill, through counsel, sent a letter to A.G.
8 Holdings, requesting copies of her payroll and personnel records. While A.G. Holdings produced
9 some records through their attorney, it failed to produce other records, such as, for example, time
10 records, applicable policies, and any applicable employee handbooks in violation of Labor Code
11 sections 226, 226(b), 226(c), 432, and 1198.5.

12 150. Upon information and belief, Defendants have a policy and practice whereby they
13 refuse to provide all required payroll and personnel records to employees who request them, including,
14 but not limited to, time records, handbooks, applicable policies, documents with the employee's
15 signature etc.

16 151. Defendants violated Labor Code sections 226, 226(b), 226(c), 432, and 1198.5 by
17 failing to produce the requested records.

18 152. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
19 Labor Code sections 226(b), 226(c), 432, 1198.5.

20 153. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
21 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
22 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
23 all Labor Code provisions for which a civil penalty is not specifically provided.

24 154. Plaintiffs are seeking civil penalties against Defendants under the PAGA, including
25 Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties
26 under the PAGA in an amount to be shown according to proof.

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155. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiffs seek to recover attorneys' fees, costs, filing fees paid to the LWDA and civil penalties in an amount to be shown according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a judgment against Defendants as follows:

1. An award of civil penalties pursuant to the PAGA and/or other applicable laws;
2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant to the PAGA, California Labor Code section 2699(g), and/or other applicable law;
3. Post-judgment interest as provided by law; and
4. Such other and further relief that the Court may deem just and proper.

Dated: May 11, 2023

MASHIRI LAW FIRM, APC

By: 
 Alex Asil Mashiri
 Attorney for Plaintiffs
 JENNIFER KIKERPILL
 BEATRICE JUAREZ